

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**In re: Joint Petition of  
Essex Communications, Inc.  
d/b/a eLEC Communications and  
Adelphia Business Solutions  
Operations, Inc. and Adelphia  
Business Solutions of Nashville, LP  
For Approval of Transfer of  
Customer Base Pursuant to  
Rule 1220-4-2-.56(2)(d)**

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**Docket No.:** 02-00011  
**Filed:** JUN 2 PM 12 02

OFFICE OF THE  
EXECUTIVE SECRETARY

**JOINT PETITION FOR WAIVER**

Adelphia Business Solutions Operations, Inc. and Adelphia Business Solutions of Nashville, L.P. (collectively "Adelphia") and Essex Communications, Inc. d/b/a eLEC Communications ("eLEC") respectfully request, pursuant to Rule 1220-4-2-.56 of the Tennessee Public Service Commission Rules, the Tennessee Regulatory Authority ("TRA") to approve the transfer of customers among the petitioners. Upon approval of this petition, the petitioners propose to transfer the resale customer base of Adelphia to eLEC.

Adelphia provides local exchange services, intraLATA toll service, high-speed Internet access, and long distance telephone service. eLEC is a full service telecommunications company that provides local exchange and long distance service. Adelphia initially entered most of its Tennessee markets on a resale basis with the intent to migrate these customers to its facilities-based services as it constructed its network in Tennessee. For a variety of reasons in some areas where it provides resale services, Adelphia will not be able to complete its network in the near future. Accordingly, it proposes to assign those

resale customers to eLEC to enable Adelphia to focus on its facilities-based end users and conversion of its other resale customers to facilities-based subscribers where it currently has facilities.

After all the necessary regulatory approvals, the aforementioned customers will be served by eLEC. Upon completion of the customer transfer, Petitioners will resolve any customer questions that may result from the transfer.

Prior to implementing these changes, the transferring company will send a notification to all affected customers. The initial notification will advise the customers of the following: the pending change of their carrier selection to eLEC; the rates, terms, and conditions of the service(s) to be provided by the acquiring carrier; that there will be no charge to the customer associated with the change; that services will be provided; the subscriber's right to select a different preferred carrier, if an alternative carrier is available; a toll-free customer service telephone number for inquiries about the transfer; the fact that all subscribers receiving the notice, including those who have arranged preferred carrier freezes through their local service providers, will be transferred to the new carrier if they do not select a different preferred carrier before the transfer date; and 6) whether the acquiring carrier will be responsible for resolving outstanding complaints against the selling or transferring carrier. The acquiring carrier agrees to provide the affected customers a thirty day written notice of any rate increase that may affect their service up to ninety days from the date of the transfer of customers and will include this information in the initial notification letter to the customer.

Petitioners respectfully request that the TRA issue an order approving the transfer pursuant to Rule 1220-4-2-.56 in order to consummate the transfer of customers. In support of this request, Petitioners provide the following information:

**I. THE PETITIONERS and PARTIES**

Adelphia Business Solutions Operations, Inc., a Delaware corporation, is certificated in Tennessee<sup>1</sup> as well as Adelphia Business Solutions of Nashville, L.P., a Delaware limited partnership.<sup>2</sup> Essex Communications, Inc. d/b/a eLEC Communications, a New York corporation, was certificated on July 13, 2001 in Docket 00-00963.

These companies offer a variety of resale interexchange telecommunications services, including direct dial outbound service, inbound toll-free service, travel card and operator assisted services. In addition to the services provided in Tennessee, these companies are authorized to provide resold interexchange telecommunications services in other states either pursuant to certification or registration, or on an unregulated basis. These companies are also authorized by the FCC to provide interstate and international telecommunications services.

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<sup>1</sup> *In re: Application of Hyperion Communications of Tennessee, L.P. for a Certificate of Public Convenience and Necessity to Provide Facilities-Based and Resold Local Exchange and Resold Interexchange Telecommunications Services throughout the State of Tennessee*, Order Granting Certificate of Public Convenience and Necessity, Docket No. 98-00732 (Dec. 6, 1999) and *In re: Application of Adelphia Business Solutions Operations, Inc. and Hyperion Communications of Tennessee, L.P. for Authority to Merge and Transfer Licenses as Part of a Pro Forma Corporate Restructuring*, Order Approving Transfer of Authority, Docket No. 00-00271 (June 29, 2000).

<sup>2</sup> AVR, L.P. d/b/a Hyperion of Tennessee, L.P. ("Hyperion") was issued a certificate of public convenience and necessity on August 12, 1995 in Docket No. 94-00661. On October 24, 2000, Hyperion notified the TRA of its name change to Adelphia Business Solutions of Nashville, L.P.

## **II. CONTACT INFORMATION**

Correspondence of communications pertaining to this application should be directed to:

Maria A. Abbagnaro, Esq.  
Director of Regulatory Affairs  
eLEC Communications  
509 Westport Avenue  
Norwalk, Connecticut 06851

with a copy to:

Terry Romine, Esq.  
Director Legal & Regulatory Affairs  
Adelphia Business Solutions Operations, Inc.  
One North Main Street  
Coudersport, PA 16915-1630

## **III. REQUEST FOR APPROVAL**

Pursuant to Rule 1220-4-2-.56 of the Tennessee Public Service Commission Rules, the long distance provider of a customer shall not be changed without the customer's authorization. Rule 1220-4-2-.56(2)(d) provides that in the case of a transfer of a customer base between two or more telecommunications providers, the Authority, upon petition by the acquiring provider may deem that sufficient notice has been given and grant approval of the petition. The Petitioners have complied with Federal Communications Commission notice requirements for a waiver of the authorization and verification rules for implementation of the subscriber carrier selection changes provisions of the Telecommunications Act of 1996 (Attachment 1). Further, the petitioners have drafted a proposed subscriber

notification letter in compliance with Federal and Tennessee law (Attachment 2).

#### **IV. CUSTOMER IMPACT**

This transaction will be made in a seamless fashion that will avoid disruption to consumers. Existing consumers of the Petitioners will not be inconvenienced in any way. There will be no interruption of service and customers will be well informed of their choices.

#### **V. PUBLIC INTEREST CONSIDERATIONS**

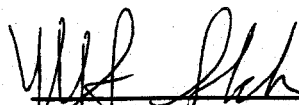
The Petitioners have determined that the proposed transaction will improve operational efficiency, thus provided greater opportunities to improve the price and performance of services available to its customers. If prior authorization is required in this event, customers may fail to respond to a request for authorization, neglect to select another long distance carrier or lose their long distance service during the transition. Consequently, granting this Petition is consistent with the public interest in promoting competition among telecommunications carriers in Tennessee. Further, by granting this Petition, unnecessary slamming complaints will be prevented during the transition, saving Petitioners and the TRA administrative burdens.

WHEREFORE, for reason stated above, the Petitioners submit that

the public interest, convenience and necessity would be furthered by a grant of this Joint Petition for Approval of Customer Base Transfer pursuant to Rule 1220-4-2-.56(2)(d).

Respectfully submitted this 28th day of December, 2001.

By:



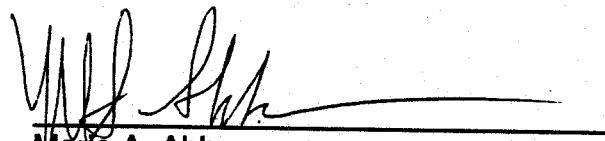
Maria A. Abbagnaro  
Director of Regulatory Affairs  
eLEC Communications  
509 Westport Avenue  
Norwalk, CT 06851  
Tel: (203) 229-2402

## **CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing Joint Petition of Essex Communications, Inc. d/b/a eLEC Communications and Adelphia Business Solutions Operations, Inc., for Waiver of Slamming Rule 1220-4-2-.56(2)(d) was sent via overnight delivery on December 28, 2001, to:

Mr. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

Terry Romine  
Director Legal & Regulatory Affairs  
Adelphia Business Solutions  
One North Main Street  
Coudersport, PA 16915-1630

  
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Maria A. Abbagnaro

**ATTACHMENT 1**

**COMPLIANCE WITH FEDERAL COMMUNICATIONS COMMISSION**

**NOTIFICATION REQUIREMENTS**



Maria A. Abbagnaro, Esq.  
Director of Regulatory Affairs  
Tel.: (203) 229-2402  
Fax: (413) 521-4592  
mabbagnaro@elec-corp.com

December 27, 2001

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
Office of the Secretary  
445-12th Street, SW  
Washington, DC 20024

Re: Essex Communications, Inc. d/b/a eLEC Communications, and  
Adelphia Business Solutions, Inc. and its Operating Subsidiaries  
CC Docket 00-257 - Transfer of Customer Subscriber Base

Dear Ms. Salas:

In accordance with the requirements of 47 CFR 64.1120 as promulgated in CC Dockets 00-257 and 94-129 (FCC 01-156), Essex Communications, Inc. d/b/a eLEC Communications ("eLEC") the acquiring telecommunications carrier, is submitting this correspondence as notification to the Commission of an impending partial transfer of a customer subscriber base.


The parties to this transaction include Adelphia Business Solutions Operations, Inc.; Adelphia Business Solutions of Louisiana, LLC; Adelphia Business Solutions Operations of Kentucky Inc.; Adelphia Business Solutions of South Carolina, Inc.; Adelphia Business Solutions of Jacksonville, Inc; and Adelphia Business Solutions Investment, LLC, (referred to collectively as "Adelphia") and eLEC. Both eLEC and Adelphia offer resale local exchange service and interexchange telecommunications services, including direct dial outbound service, inbound toll-free service, travel card service and operator assisted services. Adelphia also operates as a facilities-based carrier. Adelphia enters many of its market initially on a resale basis, and then transitions the resale customers to its own facilities as its network is built into these markets. Due to a variety of factors, Adelphia will not be constructing facilities into some areas where it currently has resale customers. As Adelphia's focus is on facilities-based services, Adelphia proposes the relinquishment and transfer of a number of its resale customers, while maintaining its facilities-based end users and those resale customers which it has the ability to convert to facilities-based end users. To the extent applicable, the types of telecommunication services to be provided by eLEC following the transfer are local, intraLATA Toll, interLATA Toll, and/or state-to-state long distance services.

The anticipated transfer date is February 21, 2001; however, this date is subject to the necessary regulatory approvals of state public utility commissions in the nine states in which affected consumers reside. Therefore, the final transfer date will be February 21, 2001 or later. All notice obligations required by the Federal Communications Commission ("FCC") and state public utility commissions, to the affected subscribers will satisfy the thirty (30) days notice prior to transfer requirement. [64.1120(e)(1) and (e)(3)].

Prior to implementing these changes, the transferring companies will send the required notification to all affected customers not less than thirty (30) days prior to the transfer date. This notification will advise customers of the rates, terms, and conditions of the service(s) to be provided by the acquiring carrier, the fact that the customer will not be responsible for any carrier charges associated with the transaction, the customer's right to choose another carrier, a toll-free telephone number for inquiries about the transfer, the fact that a preferred carrier freeze will not prevent this transfer, that customers that desire a different carrier must choose a new carrier before the transfer date, and if the acquiring carrier will be responsible for the resolution of outstanding complaints levied against the selling/transferring carrier. As required by FCC rules, attached is a copy of the subscriber notification letter to be provided to Adelphia customers in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee (Exhibit A).

Please feel free to me at (203) 229-2402 if you have any questions regarding this notification.

Sincerely,

  
Maria A. Abbagnaro

Encl.: Exhibit A

**EXHIBIT A**



## DRAFT

Dear Customer,

Adelphia Business Solutions is pleased to announce a wide-ranging Agreement it has reached with eLEC Communications. As a part of the Agreement, effective February 22<sup>nd</sup>, 2002, all services which have been provided by Adelphia will be billed and serviced by eLEC.

The reason for this transfer relates to Adelphia's decision to focus on other portions of its operations. This Agreement will ensure that Adelphia's customers continue to receive all features and services, at the same terms, conditions and rates. Adelphia will continue to be responsible for resolving any complaints received prior to the transfer and can be contacted at 877-279-3900.

eLEC Communications is a total telecommunications service provider licensed to provide telephone service in over forty states. eLEC offers a full line of telecommunications products, including local, long distance, calling card, voice mail, and Internet services. With over 51,000 customer lines in service, eLEC is well suited to meet your telecommunications needs.

Please be assured that your service will not be interrupted and that eLEC will be responsible for any charges associated with this transfer. As always, you have the right to select another local exchange carrier and may do so prior to the transfer date. If you have a preferred carrier freeze on your account and have not made an alternate carrier selection prior to the transfer date, you will be migrated to eLEC and will continue to enjoy the same services previously received from Adelphia.

eLEC looks forward to servicing your telecommunications needs of the future. Of course, if you have any questions regarding this information or eLEC services, please contact eLEC at 1- 888-389-1400.

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Paul Riss  
CEO  
eLEC Communications

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Brennan Asplen, Jr.  
Director of Business Operations  
Adelphia Business Solutions

# **CERTIFICATION**

**This is to certify that a copy of the foregoing Notification of Transfer of Customer Subscriber Base involving Essex Communications, Inc. d/b/a eLEC Communications and Adelphia Business Solutions, Inc. was sent via overnight delivery on December 27, 2001, to:**

**Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
Office of the Secretary  
445-12th Street, SW  
Washington, DC 20554**

**Terry Romine  
Adelphia Business Solutions  
Director Legal & Regulatory Affairs  
One North Main Street  
Coudersport, PA 16915-1630**

  
**Maria A. Abbagnaro**

**ATTACHMENT 2**

**PROPOSED SUBSCRIBER NOTIFICATION LETTER**



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